

# Review of the Legislative Framework for Corporations and Financial Services Regulation

Submission to the Australian Law Reform Commission

July 2023

## Introduction

The Australian Financial Complaints Authority (**AFCA**) is the independent external dispute resolution (**EDR**) scheme for the financial sector. For over 25 years, AFCA and its predecessor scheme's purpose has been to provide fair, independent, efficient and effective solutions for Australian consumers and small business to have their financial complaints heard.

In addition to providing solutions for financial complaints, AFCA has responsibilities<sup>1</sup> to identify, resolve and report on systemic issues and to notify the Australian Securities and Investments Commission (ASIC), and other regulators, of serious contraventions of the law.

More broadly, AFCA plays a key role in restoring trust in the financial services sector. Since its establishment on 1 November 2018, AFCA has handled over 320,000 complaints and delivered over \$1 billion in compensation to consumers.

AFCA acknowledges that financial services legislation plays a crucial role in regulating and safeguarding the financial services industry in Australia. It is essential for consumers and small business and financial services providers to be aware of their rights and obligations under this legislation to ensure a fair, transparent, and efficient financial system.

AFCA has therefore been closely monitoring the progression of the Australian Law Reform Commission's (ALRC) Review of the Legislative Framework for Corporations and Financial Services Regulation (the Review). We appreciate the importance of the Review and potential for beneficial effect on the financial services landscape for all participants.

## Australian Law Reform Commission Review - Interim Report C

AFCA welcomes the opportunity to provide a submission<sup>2</sup> in response to ALRC's Interim Report C – (Report 140). As a starting position, AFCA supports any regulatory change that looks to improve consumers understanding of their rights under the law, including important consumer protections, and overall understanding of financial services provider obligations.

Understanding their rights empowers consumers and small business to make informed financial decisions and ensures they are aware of the protections and remedies available to them in case of any disputes or misconduct by financial

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<sup>1</sup> Refer to Part C, Reporting Requirements, of ASIC Regulatory Guide 267: Oversight of the Australian Financial Complaints Authority.

<sup>2</sup> This submission has been prepared by the staff of AFCA and does not necessarily represent the views of individual directors of AFCA.

services providers. This awareness is especially important considering the complex and often technical nature of financial products and services.

While AFCA does not have comments on the specific proposed restructuring and amendments as outlined in Interim Report C, AFCA supports the ALRC's aim of achieving an adaptive, efficient, and navigable legislative framework and to ensure there is meaningful compliance with the substance and intent of the law.

The ALRC highlights that in the area of financial services, legislative complexity makes it difficult for consumers and investors to understand and enforce their rights, including rights to access AFCA's free external dispute resolution service. In this regard, AFCA is committed to increasing consumer and small business awareness of their right to access our service.

AFCA understands that when both consumers and financial services providers are aware of their rights and obligations, it fosters trust in the financial system. Trust is a fundamental aspect of any financial relationship and AFCA often becomes involved at the point in which this trust has been lost or significantly diminished. As part of AFCA's role, we look to repair this trust by bringing the parties together and to reach an outcome that is fair in all the circumstances.

AFCA welcomes ALRC's direction that submissions in response to Interim Report C, together with further consultation activities will form part of the evidence base for a further Interim Report and the Final Report. AFCA is pleased to participate in these activities to support efforts towards greater transparency, trust and fairness in the financial services landscape.